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Atty Dkt. No. DIOP-06900



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: LANE et al.

Confirmation No. 6556

Serial No.: 10/607,068

Group Art Unit: 2873

Filed: 06/25/2003

Examiner: MAI, Huy Kim

Title: LIGHT-BLOCKING AIR VENTS FOR EYEWEAR

\* \* \*

**RESPONSE TO OFFICE ACTION MAILED ON MAY 14, 2004**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Examiner:

The following is in response to the Official Action mailed on May 14, 2004:

This submission conforms to the revised format as set forth in Changes to Implement Electronic Maintenance of Official Patent Application Records, Federal Register, Volume 68, Number 125, pages 38611-38630, June 30, 2003.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

06/25/03

# FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 720.00)

## Complete if Known

Application Number	
Filing Date	06/25/2003
First Named Inventor	Henry Welling Lane
Examiner Name	
Art Unit	
Attorney Docket No.	DIOP-06900

## METHOD OF PAYMENT (check all that apply)

 Check  Credit card  Money Order  Other  None
 Deposit Account:

Deposit Account Number	50-1610
Deposit Account Name	Law Offices of Derek J. Westberg

The Commissioner is authorized to: (check all that apply)

 Charge fee(s) indicated below  Credit any overpayments Charge any additional fee(s) during the pendency of this application Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid	Fee Description	Fee Paid
1051	130	2051 65 Surcharge - late filing fee or oath			
1052	50	2052 25 Surcharge - late provisional filing fee or cover sheet			
1053	130	1053 130 Non-English specification			
1812	2,520	1812 2,520 For filing a request for ex parte reexamination			
1804	920*	1804 920* Requesting publication of SIR prior to Examiner action			
1805	1,840*	1805 1,840* Requesting publication of SIR after Examiner action			
1251	110	2251 55 Extension for reply within first month			
1252	410	2252 205 Extension for reply within second month			
1253	930	2253 465 Extension for reply within third month			
1254	1,450	2254 725 Extension for reply within fourth month			
1255	1,970	2255 985 Extension for reply within fifth month			
1401	320	2401 160 Notice of Appeal			
1402	320	2402 160 Filing a brief in support of an appeal			
1403	280	2403 140 Request for oral hearing			
1451	1,510	1451 1,510 Petition to institute a public use proceeding			
1452	110	2452 55 Petition to revive - unavoidable			
1453	1,300	2453 650 Petition to revive - unintentional			
1501	1,300	2501 650 Utility issue fee (or reissue)			
1502	470	2502 235 Design issue fee			
1503	630	2503 315 Plant issue fee			
1460	130	1460 130 Petitions to the Commissioner			
1807	50	1807 50 Processing fee under 37 CFR 1.17(q)			
1806	180	1806 180 Submission of Information Disclosure Stmt			
8021	40	8021 40 Recording each patent assignment per property (times number of properties)			
1809	750	2809 375 Filing a submission after final rejection (37 CFR 1.129(a))			
1810	750	2810 375 For each additional invention to be examined (37 CFR 1.129(b))			
1801	750	2801 375 Request for Continued Examination (RCE)			
1802	500	1802 900 Request for expedited examination of a design application			

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 0.00)

SUBMITTED BY (Complete if applicable)

Name (Print/Type)	Derek J. Westberg	Registration No. (Attorney/Agent)	40,872	Telephone	(408)293-9090
Signature	<i>Derek J. Westberg</i>	Date	6-25-03		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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paragraph 24, lines 3-4. The vertical apertures are at angle of 70-90° from the horizontal viewing angle. Matera, paragraph 24, lines 9-11. The horizontal viewing angle is directed along a horizontal line extending from the eye through the lenses and out towards the horizon. Matera, Figure 8. Claim 50 is distinguishable from Matera at least because the angle of the aperture is approximately forty-five degrees, which is substantially less than the angle range of 70-90 degrees disclosed by Matera. For at least this reason, claim 50 is allowable over Matera.

Claim 51 is dependent from claim 50 and recites that the angle is approximately forty-five degrees. Support for this feature can be found on page 4, lines 13-23 and Figure 3 of the applicants' specification. Thus, no new matter has been added. Claim 51 is allowable at least because it is dependent from allowable base claim 50.

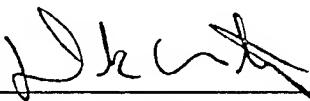
Claims 52-62 are substantially similar to claims 34-44. No new matter has been added. Claims 52-62 are allowable at least because they are dependent from allowable base claim 50.

Claim 61 recites eyewear wherein the width of the aperture is substantially equal to a thickness of the brow web. The applicants submit that that claim 61 is distinguishable from Harris, Hall et al. and Matera since they do not suggest or disclose, separately or in combination, any features pertaining to the width of the apertures in relation to the thickness of a brow web. For at least this reason claim 61 is allowable.

In view of the above, the applicants respectfully submit that all of the pending claims are now allowable. Allowance at an early date would be greatly appreciated. Should any issues remain, the examiner is encouraged to telephone the undersigned at (408) 293-9000 to discuss the same so that any outstanding issues may be expeditiously resolved.

Law Offices of Derek J. Westberg

Dated: August 16, 2004



Derek J. WESTBERG (Reg. No. 40,872)

**PATENT APPLICATION FEE DETERMINATION RECORD**  
Effective October 1, 2003

BEST AVAILABLE COPY

**CLAIMS AS FILED - PART I**

		(Column 1)	(Column 2)
<b>TOTAL CLAIMS</b>			
FOR		NUMBER FILED	NUMBER EXTRA
TOTAL CHARGEABLE CLAIMS		minus 20 =	
INDEPENDENT CLAIMS		minus 3 =	
MULTIPLE DEPENDENT CLAIM PRESENT			<input type="checkbox"/>

\* If the difference in column 1 is less than zero, enter "0" in column 2

**CLAIMS AS AMENDED - PART II**

		(Column 1)	(Column 2)	(Column 3)
AMENDMENT A		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR
	Total	• 46	Minus	** 49 =
	Independent	• 4	Minus	*** 2 = 1
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				<input type="checkbox"/>

SMALL ENTITY TYPE	OR	OTHER THAN SMALL ENTITY
RATE	FEE	RATE
BASIC FEE	385.00	BASIC FEE
OR X\$ 9=		770.00
OR X43=		X\$18=
OR +145=		X86=
TOTAL		+290=
OR	TOTAL	

SMALL ENTITY TYPE	OR	OTHER THAN SMALL ENTITY
RATE	ADDI- TIONAL FEE	RATE
X\$ 9=		X\$18=
OR X43=	43	X86=
OR +145=		+290=
TOTAL ADDIT. FEE		TOTAL ADDIT. FEE
OR		

		(Column 1)	(Column 2)	(Column 3)
AMENDMENT B		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR
	Total	•	Minus	** =
	Independent	•	Minus	*** =
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				<input type="checkbox"/>

AMENDMENT B	RATE	ADDI- TIONAL FEE	RATE	ADDI- TIONAL FEE
	X\$ 9=		X\$18=	
	X43=		X86=	
	+145=		+290=	
	TOTAL ADDIT. FEE		TOTAL ADDIT. FEE	
OR				

		(Column 1)	(Column 2)	(Column 3)
AMENDMENT C		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR
	Total	•	Minus	** =
	Independent	•	Minus	*** =
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				<input type="checkbox"/>

AMENDMENT C	RATE	ADDI- TIONAL FEE	RATE	ADDI- TIONAL FEE
	X\$ 9=		X\$18=	
	X43=		X86=	
	+145=		+290=	
	TOTAL ADDIT. FEE		TOTAL ADDIT. FEE	
OR				

\* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".

\*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.